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August 15, 1996

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Mr. William F. Caton
Office of the Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

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Re: CC Docket No. 95-116

Dear Mr. Caton:

Enclosed for filing please find an original plus eighteen (18) copies (two of which are marked "Extra Public Copy") of the Comments of Frontier Corporation in the above-docketed proceeding.

To acknowledge receipt, please affix an appropriate notation to the copy of this letter provided herewith for that purpose and return same to the undersigned in the enclosed, self-addressed envelope.

Very truly yours,

Michael J. Shortley, III

cc: International Transcription Service

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	CC Docket No. 95-116
Telephone Number Portability	)	RM 8535

COMMENTS OF FRONTIER CORPORATION

Frontier Corporation ("Frontier"), on behalf of its incumbent local exchange, competitive local exchange and long distance subsidiaries, submits these comments in response to the Commission's Further Notice in this proceeding.[1] In the Further Notice, the Commission seeks comment on the types of number portability costs that should qualify for recovery and the manner in which such costs should be recovered consistent with section 251(e)(2) of the Communications Act, as amended by the Telecommunications Act of 1996 ("Act").

1. Costs Subject To Recovery

The Commission correctly identifies three categories of costs associated with number portability -- costs borne by the industry as a whole (*e.g.*, construction and operation of databases, administration and the like); carrier-specific, direct costs (*e.g.*, switch software); and carrier-specific, indirect costs (*e.g.*, general network upgrades).[2]

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1 *Telephone Number Portability*, CC Dkt. 95-116, First Report and Order and Further Notice of Proposed Rulemaking, FCC 96-286 (July 2, 1996) ("Further Notice").

2 *Id.*, ¶ 208.

The Commission should treat each category differently. Only the first category of costs should be subject to an explicit number portability cost-assignment mechanism. This category of costs presents a classic case of an externality -- an investment that, if made, would benefit all, but for which no individual carrier would make the required investment.[3] That is, for any number portability program to operate, every carrier must participate in a system that is external to their individual needs. No one carrier, for example, would construct and operate the databases necessary for number portability if other carriers could free-ride off that investment. Thus, these costs should be assigned to all carriers through a competitively-neutral mechanism as provided for in the Act.[4]

Carrier-specific direct and indirect costs associated with -- but not necessarily directly attributable to -- number portability are conceptually district from industry-wide costs. To the extent that there are carrier-specific direct costs associated with number portability,[5] those costs should properly be borne by the carrier incurring those costs. Once a mechanism exists to assign externality-related costs, most carriers would have an independent incentive to make the necessary investment to take advantage of number portability capabilities. By so doing, any particular carrier would be able to compete more

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3 *See, e.g.,* Nicholson, *Microeconomic Theory: Basic Principles and Extensions* at 528-29 (Dryden Press 1972).

4 47 U.S.C. § 251(e)(2).

5 The sole example provided by the Commission -- switch software upgrades necessary for number portability (Notice, ¶ 208) -- suggests that such a category of costs may well be illusory. It is unlikely that a switch manufacturer would design a software upgrade solely to provide number portability. Virtually every new software generic contains within it a number of new or refined capabilities.

effectively for customers, given the importance of number portability in a competitive local exchange environment.[6] Thus, direct, carrier-specific costs are not subject to the externality problem that characterizes industry-wide costs.

Indirect costs -- such as upgrades to accommodate Signaling System 7 ("SS7") and Advanced Intelligent Network ("AIN") capabilities -- not only do not present externality issues, they do not represent number portability costs at all. SS7 and AIN capabilities, for example, are or may be used to support a variety of network functions, features and services. As a matter of statutory construction, such costs presumptively should not qualify for assignment to a "number portability cost pool."

2. Cost-Recovery Mechanisms

Cost recovery essentially addresses two issues: the manner in which industry-wide costs are allocated and recovered; and whether carrier-specific costs of number portability incurred by price-cap-regulated incumbent local exchange carriers should be subject to exogenous cost treatment under the Commission's price cap rules.

With respect to the first category of costs, Frontier concurs with the Commission's proposal that such costs be allocated to every telecommunications carrier based upon its

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6 *See id.*, ¶¶ 28-31.

The major exception is that incumbent local exchange carriers would have no incentive to offer number portability. Given these carriers' undoubted market power, the only short-term competitive effect of number portability would be to erode their market dominance. Thus, to the extent that all other telecommunications carriers must, as a matter of competitive necessity, make the direct investments necessary to offer number portability, incumbent local exchange carriers should also be required to make these investments. Longer-term, number portability will also benefit incumbent local exchange carriers as they attempt to compete for customers in a more competitive environment than exists today.

gross telecommunications revenues net of payments to other carriers.[7] This proposal recognizes that all carriers benefit from the existence of number portability.[8] It further comports with the Act's mandate of competitive neutrality.[9] This allocation mechanism assigns to each carrier the industry-wide costs of number portability based upon the benefits (*i.e.*, net revenues) that it receives from the availability of number portability.

As to recovery, the Commission should permit the recovery of such costs from end-user in a manner that each carrier deems best. In particular, the Commission should decline to preclude carriers from assessing monthly recurring charges or usage-based (per call) charges on end users. The Commission should only seek to ensure that such charges do not exceed the amount of such costs allocated to any individual telecommunications carrier.

The Commission also asks whether incumbent local exchange carriers should be permitted to recover their portions of such costs from their end users or other carriers.[10] The industry-wide number portability costs that are subject to external assignment

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7 *Id.*, ¶ 213.

8 The Commission inquires (*id.*, ¶ 212) whether there is a statutory basis to exclude certain carriers from participation in a cost-assignment mechanism. The short answer is "No." Section 251(e)(2) of the Communications Act provides that the costs of "number portability [shall] be borne by *all* telecommunications carriers" (emphasis added). The statute admits of no exceptions.

9 The Commission has defined competitive neutrality as: not providing one carrier an appreciable incremental cost advantage over another; and not creating a disparate effect on the ability of competing service providers to earn a normal return. *Id.*, ¶ 210.

10 *Id.*, ¶ *215.*

represent a case of an exogenous cost for which the Commission has previously permitted exogenous recovery, *e.g.*, contributions to the Telecommunications Relay Service fund. Because industry-wide number portability costs are conceptually identical, there is no reason for the Commission to treat such costs any differently.[11]

With respect to carrier-specific, direct costs that should not qualify for inclusion in a number-portability cost pool, the Commission should not depart from its existing precedent. The Commission's existing rules permit price-cap-regulated exchange carriers to treat as exogenous those costs -- to the extent that they actually exist[12] -- specifically related to the provision of a service mandated by the Commission.[13]

Carrier-specific, indirect costs, on the other hand, are presumptively treated as general network upgrades that do not qualify for exogenous cost treatment.[14] In the context of number portability, the Commission should not permit exogenous recovery of such costs either.

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11 The Commission should be extremely leery of requests by individual states to opt-out of the regional database system that the Commission envisions. State-specific programs are more likely than not to increase the overall level of industry-wide costs necessary to implement number portability than would be the case associated with the regional system. Thus, the Commission should ensure that such systems do not significantly increase number portability costs before permitting individual states to opt-out of the regional database system, as the Commission proposes. *See* Notice, ¶ 96.

12 *See supra* at 2 n.5.

13 *See Provision of Access for 800 Service*, CC Dkt. 86-10, Second Report and Order, 8 FCC Rcd. 907, 911 (1993).

14 *Id.*

Conclusion

For the foregoing reasons, the Commission should act upon the proposals contained in the Notice in the manner suggested herein.

Respectfully submitted,

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August 15, 1996

Certificate of Service

I hereby certify that, on this 15th day of August, 1996, copies of the foregoing Comments of Frontier Corporation were served by first-class mail, postage prepaid, upon the parties on the attached service list.

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